

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
Universal Service Reform – Mobility Fund)	WT Docket No. 10-208

**INFORMAL REQUEST OF SMITH BAGLEY, INC.
FOR COMMISSION ACTION**

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October 18, 2018

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SUMMARY

The goal of Mobility Fund Phase II is to bring advanced mobile wireless broadband services to unserved areas across the country. A critical component for achieving this goal is to accurately measure areas that already have access to broadband download speeds of 5 Mbps, and are therefore not eligible for MF-II support. Once these ineligible areas are accurately identified, MF-II support can be disbursed to areas most in need of support for the deployment of advanced mobile broadband services.

The Commission decided in the MF-II proceeding that it could not rely on its FCC Form 477 data as a means for accurately identifying areas ineligible for MF-II support, so it instead required incumbent broadband service providers to make a one-time data submission showing areas in which they currently provide 4G LTE broadband service with 5 Mbps download speeds.

SBI is requesting Commission action because it has found that a potentially large amount of data supplied to the Commission in the one-time data submission is likely not accurate or reliable. Specifically, SBI demonstrates that there are reasons to suspect that data supplied by Verizon overstates 5 Mbps coverage in areas in which SBI plans to use MF-II support to deploy and extend broadband service. SBI would not be making this request if it believed there is any reasonable basis to conclude that Verizon's data has a colorable claim of accuracy, but SBI's drive testing has revealed that coverage shown on the Commission's publicly-available challenge maps, in what SBI believes to be Verizon's service areas, is glaringly, systematically, and implausibly overstated.

SBI concludes that Verizon has failed to provide accurate data, and this failure exposes the limits of the MF-II challenge process the Commission established as a means of correcting flawed data filed by incumbent carriers. The problem is that the apparently staggering sweep of the inaccuracies in Verizon's data overwhelms any attempt to rely on the challenge process to produce a reliable picture of where Verizon is or is not providing qualified 5 Mbps broadband. SBI does not have the resources to comprehensively challenge Verizon's flawed data, and the challenge process was not intended to impose such burdens on challengers.

Overstating unsubsidized, qualified 4G LTE coverage creates a problem for consumers living, working, and traveling in Tribal and rural areas where support will be incorrectly denied, since these consumers will be blocked from any realistic path to advanced broadband service for the foreseeable future. SBI will not have sufficient resources to upgrade its cell site, backhaul, and switching equipment in many areas that will be denied MF-II support.

The Commission has not established any failsafe mechanisms (apart from the inadequate challenge process) to guard against, and correct, unreliable data. Incumbents were not required to support their coverage data with any drive testing, and neither the Commission nor the Universal Service Administrative Company have attempted to conduct any drive testing to verify incumbents' data.

Recent Senate hearings have focused on the unreliability of MF-II coverage data, and have criticized the Commission's reluctance to fix the problem. The Rural Wireless Association has asked the Commission to act, based on data supplied by RWA documenting Verizon's overstated coverage claims. SBI adds to that documentation in this filing, submitting drive test

results that expose the inaccuracies of coverage claims in SBI's service areas, as shown on the Commission's publicly-available coverage maps in areas that SBI believes to be Verizon's service areas.

SBI urges the Commission to investigate Verizon's coverage claims, examining the methodologies that were used to produce Verizon's representations concerning the extent of its 5 Mbps coverage. If the Commission's investigation confirms evidence already in the record that Verizon has substantially overstated its coverage, then the Commission must take remedial action. Specifically, it must instruct Verizon to submit revised data, requiring Verizon to take corrective measures identified by the Commission to ensure the accuracy and reliability of its resubmitted data.

Alternatively, the Commission may use the proceeding required by the Consolidated Appropriations Act of 2018, along with work being done by the National Telecommunications and Information Administration, to reassess 4G LTE broadband availability on Tribal lands, so as to arrive at a more accurate assessment.

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Smith Bagley, Inc. (“SBI”), by counsel and pursuant to Section 1.41 of the Commission’s Rules,¹ submits this Informal Request for Commission action, asking the Commission, (1) to investigate the circumstances surrounding Verizon’s preparation and submission of a data collection of 4G LTE coverage maps for use by the Commission in compiling a list of areas presumptively eligible for Mobility Fund Phase II (“MF-II”) support; and (2) if the Commission finds Verizon’s coverage maps to systematically overstate coverage in areas where SBI serves as an eligible telecommunications carrier (“ETC”), require Verizon to resubmit its data collection of 4G LTE coverage maps, to correct flaws in its originally-submitted data.

¹ 47 C.F.R. § 1.41. This submission replaces SBI’s Request for Informal Action filed October 10, 2018. Pursuant to Section 1.8 of the Commission’s Rules, 47 CFR § 1.8, SBI hereby requests authorization to withdraw the filing it made on October 10.

I. BACKGROUND.

SBI provides commercial mobile voice and broadband services in Arizona, New Mexico, and Utah, including service to five Tribal lands in the region—the Navajo Nation, the Hopi Nation, the Pueblo of Zuni, the White Mountain Apache Tribe, and the Ramah Navajo Indian Reservation. Headquartered in Show Low, Arizona, the company serves over 100,000 customers throughout the region, of which approximately 60,000 are low-income subscribers who are eligible for the federal Lifeline program. The company currently operates on over 200 cell sites, with dozens more scheduled to be deployed. SBI employs over 180 personnel, all drawn from local communities it serves, including Tribal members, as well as dozens more contract workers.

SBI has over 25 years of experience in the region, giving it a detailed understanding of its customers, its markets, and its competition. SBI provides high-quality 4G LTE, HSPA+, and 3G services to Tribal lands and adjacent rural areas in Arizona, New Mexico, and Utah. SBI's recently deployed 4G LTE network covers a portion of the Tribal lands where it serves.

The company has used federal universal service funding ("USF") to build and upgrade its network in areas that would not have otherwise received service. Competition developed long ago in major towns and along major roads. More recently, carriers co-locating on SBI's USF-funded towers have stretched competition to more rural areas, an example of how federal support has promoted competition that would not otherwise have developed. To this day, SBI depends upon USF support to maintain cell sites located in areas where customer revenues are insufficient to keep the lights on.

Away from the major towns and Interstate highways, SBI's network of cell sites outnumbered those of its competition. Over the past several years, SBI has been rolling out 4G LTE service, overlaying its existing network, with the assistance of both legacy high-cost support and Lifeline support, including Tribal Lifeline.

II. INTRODUCTION.

In the *MF-II Reconsideration Order*, the Commission determined that it would not rely on FCC Form 477 data for purposes of mapping areas that are presumptively eligible for MF-II support.² Instead, the Commission required a one-time data submission from incumbent service providers, intending that this new collection of data would serve as a basis for identifying presumptively eligible areas.³ The Commission, in the *MF-II Second Report & Order*, adopted specific parameters for the data collection.⁴

² *Connect America Fund, et al.*, WC Docket No. 10-90, *et al.*, Order on Reconsideration and Second Report and Order, 32 FCC Rcd 6282, 6287 (para. 10) (2017) ("*MF-II Reconsideration Order*" and "*MF-II Second Report & Order*") (collectively, "*MF-II Decision*").

³ *Id.* See also U.S. Government Accountability Office, Report to Congressional Requesters, *Broadband Internet – FCC's Data Overstate Access on Tribal Lands* (Sept. 2018) ("GAO Report"), at 15-16 (footnotes omitted), <https://prodnet.www.neca.org/publicationsdocs/wwwpdf/9718gao.pdf>:

In comments to FCC, broadband providers ... raised concerns regarding the accuracy of the mobile coverage data generated by the Form 477 for the purposes of identifying areas eligible for funding through FCC's Mobility Fund Phase II program, which provides federal funding to increase mobile broadband services in unserved areas. In 2017, in response to such concerns, FCC reversed its prior decision to use the Form 477 data to identify specific areas eligible for federal funding through the Mobility Fund Phase II program. Instead, FCC undertook a one-time special data collection, for which it required providers to measure their coverage based on a common set of standards, in order to better identify unserved areas that would be presumptively eligible for funding.

⁴ The Commission indicated that, "[i]n the new, one-time MF-II data collection, we will require providers to file propagation maps and model details with the Commission indicating their current 4G LTE

The purpose of the one-time data collection was to “provide the Commission and interested parties with the best available starting point for the challenge process.”⁵

Unfortunately, in at least one respect, this purpose appears to have been subverted. In areas where SBI has surveyed, there is evidence suggesting that data collected and submitted by Verizon identifies an extraordinary amount of territory where Verizon claims to be providing qualified 4G LTE service. This is the case for many Tribal areas and surrounding areas located within SBI’s ETC service areas. As a result, there is a strong possibility that Verizon’s data undermines what SBI believes to be an essential purpose of the Commission’s requiring the submission of improved coverage data, namely to increase accuracy at the outset, reducing areas where coverage is overstated, so that the challenge process produces an eligibility map that is ultimately more accurate than could be produced with existing Form 477 data.

The Commission recognized that disputes could arise concerning areas deemed presumptively ineligible for MF-II support, and it sought to adopt a process that would “both promote fairness and minimize burdens on interested parties.”⁶ The Commission also stated that, “given the improvements we expect to see in the standardized information that will be collected for MF-II purposes, we anticipate that there should be less concern associated with eligible area determinations”⁷

coverage, as defined by download speeds of 5 Mbps at the cell edge with 80 percent probability and a 30 percent cell loading factor.” *MF-II Second Report & Order*, 32 FCC Rcd at 6298 (para. 34).

⁵ *MF-II Reconsideration Order*, 32 FCC Rcd at 6287 (para. 10).

⁶ *MF-II Second Report & Order*, 32 FCC Rcd at 6296 (para. 27).

⁷ *Id.* at 6304 (para. 44).

The Commission could not have anticipated, however, that it and challenging parties would be confronted with what appears to be wholesale inaccuracies in data collected and submitted by Verizon. In SBI's ETC service areas, this has apparently resulted in Verizon's representation that extensive areas are covered by Verizon's qualified 4G LTE service. Although SBI has found challengeable areas, it has not observed such widespread coverage overstatements from other carriers submitting challenge data in its service area.

Based on the drive testing SBI has conducted, it urges the Commission not to place any confidence in the coverage claims reflected in Verizon's data submission. The Commission should now realize that the MF-II challenge process is not capable of serving as a mechanism to correct the widespread inaccuracies in Verizon's data. The Commission adopted a "streamlined" challenge process,⁸ that it intended to "be administratively efficient, fiscally responsible, and will enable us to resolve eligible area disputes quickly and expeditiously."⁹ The Verizon problem, however, is far too big for the challenge process to handle.

The apparent scope of Verizon's inaccurate data and overstated coverage claims is so extensive that, as a practical matter, the challenge process will not and cannot produce the necessary corrections. SBI simply does not have the resources required to conduct speed tests in sufficient quantity to mount any systematic and comprehensive challenges to Verizon's coverage data throughout the areas that it believes coverage to be overstated. The challenge process was not intended to impose such burdens on challengers. In fact, the Commission

⁸ *Id.* at 6296 (para. 27).

⁹ *MF-II Decision*, 32 FCC Rcd at 6283 (para. 1).

“expect[ed] that challenged areas will be sufficiently circumscribed that challengers will not need to collect speed test data over unnecessarily large areas.”¹⁰

The challenge for the Commission is to restore the viability and reliability of the MF-II challenge process, without imposing any additional burdens on small rural carriers. SBI suggests a two-pronged approach to accomplish this result.

First, the Commission should determine how Verizon, using the parameters prescribed by the Commission, could have produced results showing levels of coverage that appear to be well in excess of what could reasonably be expected, and also appear to be in excess of what other carriers are submitting.

Second, if the Commission’s investigation identifies shortcomings in Verizon’s initial data collection that produced Verizon’s overstated coverage claims, it should require Verizon to submit corrected data, specifying corrective measures Verizon must implement to ensure the accuracy and reliability of its resubmitted data.

These actions are the only practical and effective way to cure Verizon’s data deficiencies and to ensure the accurate depiction of areas presumptively ineligible for MF-II support shown in Verizon’s coverage maps. If the problems with Verizon’s data are not cured by the Commission’s taking corrective action along the lines suggested by SBI, then consumers in SBI’s ETC service areas, as well as other consumers in rural areas throughout the country, will likely be deprived of access to advanced broadband services for the foreseeable future.

¹⁰ *MF-II Second Report & Order*, 32 FCC Rcd at 6307 (para. 48).

III. DISCUSSION.

For rural and Tribal citizens living in areas lacking high-quality 4G LTE services, if the Commission's MF-II challenge map incorrectly identifies areas as covered even though they actually lack coverage and therefore should be eligible for MF-II support, these mapping errors will block MF-II investment in these rural and Tribal areas for a decade. Accordingly, it is imperative for the Commission to ensure that all areas lacking 4G LTE services are correctly identified and therefore made eligible to receive MF-II investments.

The first step in ensuring this eligibility is for the Commission to insist that Verizon and other incumbent carriers submit accurate and reliable data identifying areas in which they are currently providing unsubsidized, qualified 4G LTE service.¹¹

A. A Large Number of Tribal and Rural Areas in Verizon's Service Area Are Shown on the Commission's Challenge Map as Being Served by Qualified 4G LTE Service, Making Any Comprehensive Testing by SBI Virtually Impossible.

The Commission's challenge map¹² shows 4G LTE coverage throughout substantially all of the Tribal and near-Tribal lands in SBI's ETC service area where people live, work, and travel. Based on its extensive experience in deploying broadband facilities and providing service in its ETC area, SBI has reason to believe that Verizon's apparent reported coverage is significantly overstated.

¹¹ The Commission has defined "qualified 4G LTE service" as mobile wireless service provided using 4G LTE technology with download speeds of at least 5 Mbps. See *Connect America Fund, et al.*, WC Docket No. 10-90, *et al.*, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 2152, 2173 (para. 51) (2017) ("*2017 MF-II Report and Order*"), cited in *MF-II Decision*, 32 FCC Rcd at 6283 (para. 3).

¹² FCC, Mobility Fund II Initial Eligible Areas Map, <https://www.fcc.gov/reports-research/maps/mobility-fund-ii-initial-eligible-areas-map/>.

SBI therefore has committed to undertake challenges pursuant to the Commission's MF-II processes to demonstrate coverage overstatements by Verizon (and by other incumbents). SBI is now testing, and will continue to test, as much as possible in its ETC service area. It anticipates spending hundreds of thousands of dollars, as well as hundreds of hours of internal technical capacity, to test areas where it believes qualified 4G LTE coverage is overstated on the Commission's challenge map.

In SBI's ETC service area, there are approximately 165,000 square kilometer blocks. Based on its knowledge of its service area, SBI believes many thousands of these blocks have been erroneously identified as having access to unsubsidized 4G LTE service. Because SBI lacks the resources to individually test a substantial number of these blocks, it is possible or even likely that thousands of individual one square kilometer blocks will be incorrectly declared by the Commission to be ineligible for MF-II support, and consequently will be prevented from receiving funding for a decade.¹³

To test its belief, SBI initially performed a drive test of a small section of its service area that also falls within Verizon's service area and that is shown in the Commission's challenge map to have 4G LTE service virtually throughout. The testing was conducted along a loop of approximately 86 miles in total length, using standard industry drive test procedures.¹⁴ Based on SBI's testing, qualified 4G LTE service is available for only approximately 30 percent of the 86-mile loop. Of the remaining approximately 70 percent of the loop where a qualifying LTE

¹³ The Commission adopted a \$4.53 billion budget for MF-II for a term of 10 years. *2017 MF-II Report and Order*, 32 FCC Rcd at 2160 (para. 23).

¹⁴ A description of the testing procedures is attached as Exhibit A.

signal has been reported and is shown on the Commission's challenge map, SBI's testing shows that approximately half of this portion of the loop recorded a signal below 5 Mbps, and the rest recorded no LTE signal at all. This SBI test produced coverage readings that are consistent with the advertising map of Verizon's coverage available on its publicly facing web site.¹⁵ A map depicting SBI's drive test results overlaid on Verizon's public map is attached hereto as Exhibit B. SBI asserts that the coverage depicted in the Commission's challenge map, in locations within Verizon's service area, is so different from that shown to be provided to the public on Verizon's web site interactive map that it requires further inquiry by the Commission.

The terrain inside the area encompassed by SBI's drive-test ring is mountainous and rugged. The roads inside the drive test area, which dead-end in the mountains, are all subgrade and almost all are dirt. Given this terrain, there is no practical way to meet the Commission's challenge process requirements with respect to test locations inside the drive-test ring without disembarking from drive-test vehicles on the dirt roads and hiking on foot or riding on horseback to reach acceptable test areas. This option of off-road testing is not practical, nor would it be particularly useful because SBI knows of no cell sites of Verizon or any other carrier located inside the test ring.

The drive test results convinced SBI to make a substantial investment in conducting testing that is compliant with the requirements of the Commission's challenge process. Since the company has no personnel resources available to conduct testing on a scale needed to

¹⁵ See Verizon, "We Have Coverage Where It Counts" (Interactive Map), <https://www.verizonwireless.com/featured/better-matters/>.

make a material difference in identifying large overstatements in reported coverage, SBI hired a testing company that is committed to carrying out performance testing consistent with the Commission's extensive challenge procedures, which are presented in thirty-one paragraphs spanning sixteen pages of the *MF-II Challenge Procedures PN*¹⁶ and extensive additional instructional materials available on USAC's web site.¹⁷

Attached as Exhibit C is a small sample of initial drive tests performed pursuant to the Commission's testing protocol. Each map contains a drive test route (black), along with successful tests (*i.e.*, a signal \geq 5 Mbps LTE) (green), unsuccessful tests (*i.e.*, no signal \geq 5 Mbps LTE) (purple), and 1 square kilometer grid cells where a presumptive successful challenge could be submitted. In addition, a table accompanying each map provides statistical data on the drive tests to measure efficiency and distances. As the Commission will see, the vast majority of areas tested in these maps either registered no service, or service below 5 Mbps.

In the process of testing, SBI has encountered many inaccessible roads inaccurately shown to be public and available for driving, identified on the maps as black lines with no data. Attached in Exhibit D are sample photographs of impassible roads leading to areas that SBI intended to test. In and around Indian Country there are many such roads, significantly increasing the degree of difficulty and expense to test the challenge map.

¹⁶ See *Procedures for the Mobility Fund Phase II Challenge Process*, WC Docket No. 10-90, *et al.*, Public Notice, 33 FCC Rcd 1985, 1990-2005 (paras. 11-42) (Rural Broadband Auction Task Force, Wireless Telecom. Bur. & Wireline Comp. Bur. 2018) ("*MF-II Challenge Procedures PN*").

¹⁷ See *Mobility Fund Phase II: Challenge Process*, <https://www.usac.org/hc/MFII-challenge-process.aspx>.

SBI will file challenges for the greatest number of areas in which it can conduct and complete testing before the end of the challenge period.¹⁸ Notwithstanding these efforts, it will not be possible for SBI to conduct drive tests in all locations within its ETC service area where Verizon apparently claims to be providing qualified 4G LTE service (based on a review of the Commission's challenge map). Since there are no practical means by which SBI can meet the Commission's challenge requirements, the result (in the absence of further Commission action) will be that many areas will remain untested, unchallenged, and ineligible for investment for 10 years or more.

B. Tribal and Rural Citizens Are Harmed by an MF-II Challenge Process That Neither Requires Incumbent Carriers to Conduct Drive Testing Nor Provides for Independent Verification of Incumbents' Coverage Data by the Commission.

Verizon and other incumbent carriers are required to submit unsubsidized coverage data, to the Universal Service Administrative Company's ("USAC") online MF-II challenge portal, that is the product of radio frequency ("RF") propagation models used by the carriers as a means of predicting coverage and throughput.¹⁹ The incumbent carriers are not required to conduct any drive testing to demonstrate the accuracy of data generated by their propagation models. Despite having field operations bureaus around the country,²⁰ the Commission has not ordered any field testing of a statistically significant sample of incumbent carriers' MF-II

¹⁸ The MF-II challenge window is scheduled to close on November 26, 2018. *Connect America Fund, et al.*, WC Docket No. 10-90, *et al.*, Order, Notice of Proposed Rulemaking, and Memorandum Opinion and Order, FCC 18-124 (rel. Aug. 21, 2018).

¹⁹ See *MF-II Second Report & Order*, 32 FCC Rcd at 6302 (para. 39).

²⁰ The "FCC's Field Operations ... consist[] of more than 40 highly trained personnel dispersed among 13 field offices across the country" FCC Website, Enforcement Bur., <https://www.fcc.gov/general/internships-enforcement-bureau>.

coverage data to gain a deeper understanding of data uploaded to the USAC challenge portal by incumbents.

Nor has the FCC requested USAC to conduct any independent testing, notwithstanding the fact that USAC has already been engaged in such testing when it confirms representations made by Mobility Fund Phase I support recipients concerning their compliance with network build-out requirements. Finally, the Commission has not engaged a third-party testing company to conduct drive tests in a sample of areas where Verizon and other incumbent carriers have claimed to be providing qualified 4G LTE service.

Three of the four largest national carriers did not participate in Auction 901 (Mobility Fund Phase I), and the fourth, T-Mobile US, Inc. (“T-Mobile”), won less than 10 percent of the total support available in the auction.²¹ For carriers choosing to avoid the public interest obligations associated with participating in the Mobility Fund program, it is advantageous to claim they are providing qualified 4G LTE service in as many areas as possible in order to prevent subsidized competition. Yet, overstating unsubsidized, qualified 4G LTE coverage creates a problem for consumers living, working, and traveling in Tribal and rural areas where support is incorrectly blocked.

In SBI’s case, it will not have the resources needed to upgrade its cell site, backhaul, and switching equipment in many areas that will be denied MF-II support. The palpable risk that

²¹ T-Mobile was awarded \$23,018,067.92 in support by the Commission in Auction 901, approximately 7.7 percent of the \$300 million in funding that was available in the auction. See Mobility Fund Phase I Auction – Winning Bids Sorted by Bidder, https://www.fcc.gov/sites/default/files/wireless/auctions/901/reports/901winning_bids_by_bidder.pdf.

consumers in areas ineligible for MF-II support will have no foreseeable path to 4G LTE service underscores the importance of subjecting Verizon’s coverage mapping data to scrutiny by the Commission in order to determine whether it is accurate and reliable.

C. There Is Reason for Concern That Mapping Coverage Data Submitted by Verizon and Other Incumbent Carriers Is Seriously Flawed.

SBI agrees with the Competitive Carriers Association that “the FCC needs to ensure unsubsidized carrier coverage data reflects consumers’ experiences on the ground.”²² Over the past seven months, specific as well as anecdotal evidence has accumulated regarding overstated coverage claimed by Verizon and other incumbent carriers in their submissions in response to the Commission’s MF-II data collection.²³

1. Evidence Regarding Verizon’s Coverage Data.

In this Informal Request, SBI is adding further evidence²⁴ complementing documentation referenced by RWA in its request for Commission action filed in August. Acting on behalf of its members and Panhandle Telecommunication Systems, Inc. (“Panhandle”), RWA requests Commission action based on evidence that Verizon has overstated its qualified 4G LTE service coverage in the Oklahoma panhandle.²⁵

²² Competitive Carriers Association Comments, WC Docket No. 10-90, *et al.* (filed Sept. 10, 2018), at 1.

²³ See Rural Wireless Association (“RWA”), Informal Request for Commission Action, WC Docket No. 10-90, *et al.* (filed Aug. 6, 2018) (“RWA Request”), at 3-4 & n.11.

²⁴ See Sec. III.A., *supra*.

²⁵ See RWA Request at 7.

RWA indicates that a professional engineering firm hired by Panhandle produced a map “that estimated that Verizon’s coverage area should be approximately 6806.49 square kilometers in the Oklahoma Panhandle—not even half of the LTE coverage area Verizon publicly claims to serve.”²⁶ RWA also states that Panhandle has accumulated speed-test data including a total of 402,573 test points (for use in the MF-II challenge process), and that 88.8 percent of the test points “tested below 5 Mbps download speed or did not register 4G LTE service at all on Verizon-designated handsets.”²⁷

RWA also cites “serious concerns regarding Verizon’s claimed unsubsidized 4G LTE coverage” expressed by a coalition of RF engineering firms in an *ex parte* letter filed with the Commission.²⁸ The RF Engineer Coalition Ex Parte Letter recites an extensive list of “RF

²⁶ *Id.* at 5 (citing estimate prepared by Monte R. Lee and Company).

²⁷ *Id.* (footnote omitted). Panhandle, in a letter to Chairman Pai last month, updated its previously-filed information, noting that “the miles driven, employee hours spent, and costs related to the challenge process have continued to rise—and [Panhandle] has not yet completed its efforts.” Ex Parte Letter from Shawn Hanson CEO, Panhandle, to Hon. Ajit Pai, Chairman, FCC, WC Docket No. 10-90, *et al.* (filed Sept. 7, 2018), at 2.

²⁸ RWA Request at 4 & n.12 (citing Ex Parte Letter from Mark Seagren, CTO/Senior RF Engineer, 4G Unwired, Inc., Lynn R. Merrill, P.E., President and CEO, Monte R. Lee and Company, Howard Gorter, P.E., Executive Vice President, Engineering Operations, Palmetto Engineering & Consulting & Jeff Little, President – Central Division, CT&T, a PEC Company (collectively, “RF Engineer Coalition”), to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90, *et al.* (filed July 5, 2018) (“RF Engineer Coalition Ex Parte Letter”). Verizon has responded to the RF Engineer Coalition Ex Parte Letter, claiming that its “coverage map complies in all respects with the mapping specifications that the Commission adopted” Letter from Alan Buzacott, Executive Director, Federal Regulatory Affairs, Verizon, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90, *et al.* (filed July 27, 2018), at 1, *cited in* RWA Request at 6 n.20. The RF Engineer Coalition has replied to the Verizon letter, disputing Verizon’s claims that the Coalition’s observations concerning Verizon’s coverage data are speculative, and “urg[ing] the Commission to investigate the 4G LTE coverage claimed by Verizon and require re-filing of Verizon’s data to correct its overstated coverage.” Letter from RF Engineer Coalition to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90, *et al.* (filed Aug. 3, 2018) (“RF Engineer Coalition Reply Letter”), at 4, *cited in* RWA Request at 6 n.20.

engineering observations and ... questions for FCC staff to address to determine if Verizon has indeed overstated its coverage.”²⁹ The RF Engineer Coalition concludes that, “[b]ased on our professional experience, Verizon’s coverage is overstated due to lack of critical data on the front end of its model process implementation or GIS [geographic information system] processing.”³⁰

2. Concerns with Overstated Mobility Fund Phase II Coverage Data.

Numerous carriers “have expressed concerns regarding the tremendous costs of MF-II Challenge Process participation. Overstated 4G LTE coverage by a nationwide provider like Verizon has increased those costs significantly, to the detriment of the challengers with whom Verizon competes.”³¹ In addition, a state commission, U.S. Senators, and an FCC commissioner have challenged the accuracy and reliability of unsubsidized carriers’ claimed coverage data and have criticized the MF-II challenge process.

The Illinois Commerce Commission (“ICC”) submitted a letter to the FCC in July asserting that “[t]he map that this information [from the FCC’s one-time MF-II data collection] has produced, showing almost no unserved, eligible areas in Illinois, does not accurately reflect the actual state of 4G LTE coverage in Illinois.”³² The ICC cautions that, “[w]hile [it] recognizes that

²⁹ RF Engineer Coalition Ex Parte Letter at 3.

³⁰ *Id.* at 5.

³¹ RWA Request at 6.

³² Letter from Brien J. Sheahan, Chairman, Illinois Commerce Commission, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90, *et al.* (filed July 30, 2018) (“ICC Letter”), at 2 (unpaginated). A copy of the letter is included in Exhibit E.

the [FCC] cannot rely upon anecdotal evidence, it should not proceed based upon results that, even in the absence of systematic information, are unquestionably unrealistic.”³³

At a recent U.S. Senate Commerce Committee oversight hearing,³⁴ Senators expressed serious concerns with the MF-II coverage maps and the challenge process. Senator Moran stated that the map of areas presumptively eligible for MF-II support “dramatically overstates”³⁵ coverage by unsubsidized carriers, and is known to be flawed. Senator Moran criticized the Commission for its expectation that others will fix the problem, noting that the Commission’s posture “is not the way that government should work.”³⁶ When discussing the difficulty getting service while driving his tractor at his Montana farm, Senator Tester was more blunt, complaining that “the maps stink.”³⁷

Commissioner Rosenworcel described succinctly the cumbersome process involved in mounting a challenge. She criticized the coverage maps as being flawed, and also suggested using the Commission’s field offices, USAC, and the Commission’s Measuring Broadband America Program to assist in the challenge process.³⁸ She indicated that both the field offices and USAC could conduct spot tests to check the accuracy of coverage data. Commissioner

³³ *Id.*

³⁴ *Oversight of the Federal Communications Commission: Hearing Before the S. Comm. on Commerce, Science & Technology*, 115th Cong., Webcast (Aug. 16, 2018) (“Oversight Hearing”), <https://www.commerce.senate.gov/public/index.cfm/2018/8/oversight-of-the-federal-communications-commission>.

³⁵ *Id.* at 1:22.

³⁶ *Id.* at 1:23.

³⁷ *Id.* at 1:51.

³⁸ *Id.* at 1:25.

Rosenworcel also testified at the hearing that, if the Commission is wrong in the way it disburses \$4.5 billion in MF-II funding over the next 10 years, “rural communities will pay a really big price” because they will not receive funding that they need.³⁹

Commissioner Rosenworcel, in an online posting following the hearing, again stated her concerns regarding the consequences of the Commission’s getting the MF-II coverage map wrong, stating that “[t]he FCC is getting ready to distribute \$4.5 BILLION in support to rural communities for better wireless service. But the maps the FCC is using to determine where these funds go are full of inaccuracies. This is a big problem.”⁴⁰ The extent of the problem is highlighted in a recent Pittsburgh Post-Gazette article that discusses the consequences of poor Internet connectivity, describing how poor Internet and cell service is hurting Pennsylvania’s rural citizens.⁴¹ Put succinctly, a telecommunications policy specialist at Penn State University said that “[o]ur lack of connectivity is costing us lives.”⁴² If that is the case, the Commission must be sure it is not treating these areas as served by 4G LTE.

³⁹ *Id.* See ICC Letter at 3 (stating that “[t]he long-run nature of the Commission [MF-II] funding process means that initial errors will be long-lived and difficult, if not impossible, to correct”).

⁴⁰ Jessica Rosenworcel (@JRosenworcel), TWITTER (Aug. 27, 2018, 9:20 AM) (emphasis in original), <https://twitter.com/JRosenworcel/status/1034113506038218753>.

⁴¹ Kris B. Mamula, “Lifeline Offline: Unreliable Internet, Cell Service Are Hurting Rural Pennsylvania’s Health,” PITTSBURGH POST-GAZETTE (June 26, 2018), <http://www.post-gazette.com/business/healthcare-business/2018/06/26/Lifeline-offline-Unreliable-internet-cell-service-are-hurting-rural-Pennsylvania-s-health/stories/201806260089>.

⁴² *Id.*

Recently, the Senate Commerce Committee conducted a hearing titled, “Broadband: Opportunities and Challenges in Rural America.”⁴³ Witnesses from commercial and Tribal entities testified concerning, among other things, shortcomings in the Commission’s MF-II challenge map. Grant Spellmeyer, Vice President, Federal Affairs and Public Policy, United States Cellular Corporation, testified that the company has taken over 16 million data readings in accordance with the Commission’s testing procedures and observed that 34 percent of the locations tested showed no coverage, or coverage at speeds below the Commission’s 5 Mbps standard. Mr. Spellmeyer explained that the company has already spent nearly \$2 million conducting testing and has covered only 3 percent of the challengeable areas in its ETC coverage footprint. Senators expressed significant concern about the accuracy of the Commission’s challenge map.⁴⁴ These facts are consistent with SBI’s experience. Because most of the Navajo Nation and surrounding area are deemed served, the company has invested hundreds of thousands of dollars in drive testing to date, but has covered only a small portion of the areas that need to be tested.

Last month, in response to a request from members of the Senate’s Committee on Indian Affairs, the U.S. Government Accountability Office (“GAO”) released a report concluding,

⁴³ *Broadband: Opportunities and Challenges in Rural America: Hearing Before the S. Comm. on Commerce, Science & Technology*, 115th Cong., Webcast (Oct. 4, 2018), <https://www.commerce.senate.gov/public/index.cfm/hearings?ID=9908AEEE-9B97-4C47-B6ED-32E02A1D30CE>.

⁴⁴ For example, Senator Wicker expressed an apprehension that maps overstating coverage will crack open the digital divide by freezing areas that the challenge map shows to be served with unsubsidized 4G LTE coverage. *Wicker Expresses Apprehension with Mobility Fund Challenge Process*, YOUTUBE, <https://youtu.be/5v11cBj2EVs>.

among other things, that “limitations in the FCC’s existing process for collecting and reporting broadband data have led the FCC to overstate broadband access on tribal lands.”⁴⁵ GAO recommended that the Commission develop methods for collecting and reporting accurate and complete data on broadband access specific to Tribal lands.⁴⁶

At an October 3, 2018, hearing before the Senate’s Indian Affairs Committee, Patrick Webre, Chief of the Commission’s Consumer and Government Affairs Bureau, testified:

Also relevant to GAO’s first recommendation is the requirement in the Consolidated Appropriations Act of 2018 that the Commission conduct an assessment regarding the availability of broadband services in Indian Country and report on the results by March 23, 2019. Based on the results of that assessment, the legislation directs the Commission to conduct a rulemaking proceeding to address the unserved areas identified in the report. We have begun work on that effort and will work with Tribal officials and stakeholders to develop a clear picture of broadband deployment on Tribal lands and address unserved areas.⁴⁷

One way for the Commission to remedy the shortcomings SBI and GAO have identified with respect to broadband availability on Tribal lands would be for the Commission to step back, consult with stakeholders, including Tribal governments, and use the proceeding required by the Consolidated Appropriations Act of 2018, along with work being done by the National Telecommunications and Information Administration, to reassess 4G LTE broadband availability

⁴⁵ See GAO Report at 34.

⁴⁶ *Id.* at 35.

⁴⁷ Written Statement of Patrick Webre, *Oversight of GAO Reports Relating to Broadband Internet Availability on Tribal Lands: Hearing Before the S. Comm. on Indian Affairs*, 115th Cong. (Oct. 3, 2018), <https://www.indian.senate.gov/sites/default/files/Webre%20Testimony%20SCIA%20Oct%203%20FINAL.PDF>.

on Tribal lands, so as to arrive at a more accurate assessment. SBI asks the Commission to be especially mindful of the extraordinary harm that denial of MF-II support will have on the Tribal lands that SBI serves, some of the most difficult to reach in the nation and in greatest need of access to high-quality mobile voice and broadband services.

D. The Commission Should Investigate Verizon’s Submission of Data Relating to SBI’s ETC Service Areas, and Should Require Verizon to Take Corrective Measures and Resubmit Its Coverage Data.

The Commission should investigate the coverage data submitted by Verizon because credible concerns—supported by on-the-ground evidence—have been raised regarding the accuracy and reliability of Verizon’s coverage claims. Given the extent to which Verizon’s data may overstate its qualified 4G LTE service coverage, and given the inadequacy of the MF-II challenge process to serve as a corrective mechanism, SBI agrees with Senator Moran that it is the responsibility of the Commission to fix the problem.⁴⁸ In this case, fixing the problem means investigating the extent to which Verizon or any other carrier has overstated unsubsidized 4G LTE coverage.⁴⁹

SBI also agrees with the RF Engineer Coalition that “[t]his [Commission] investigation could begin with a review of a sampling of data uploaded into the USAC portal – data from both

⁴⁸ Oversight Hearing at 1:23 (Senator Moran Statement).

⁴⁹ See ICC Letter at 3:

The Commission should, itself, verify the accuracy of the information it has collected and correct any errors in the information. As the entity distributing funding provided by Illinois telecommunications consumers, it is incumbent on the Commission to ensure its funding is based upon accurate information, rather than relying on entities that are unlikely or unable to validate and challenge such information

the Oklahoma Panhandle and other locations.”⁵⁰ These other locations should include the areas tested by SBI that have been discussed in this Informal Request.

If the Commission’s investigation leads to its determination that Verizon’s claims concerning its qualified 4G LTE service coverage are overstated—which SBI believes it will—then the Commission should require Verizon to submit corrected data. The Commission should also require Verizon to provide a detailed explanation of the steps it will take to ensure that its resubmitted data will be accurate and reliable. After Verizon’s resubmission of data to the USAC portal, interested parties should then have an opportunity to challenge the data in accordance with the terms and requirements of the MF-II challenge process.

By taking these recommended actions, the Commission will help to overcome an unfairness built into the MF-II challenge process, which leaves to SBI and other small carriers serving rural and Tribal areas the overwhelming task of fixing the coverage map. The Commission, in designing the challenge process, assigned no drive-test responsibilities either to itself or to the four national carriers.

If the national carriers’ coverage claims are challenged in the MF-II challenge process, they can choose not to respond, without suffering any appreciable adverse effects, or they can contest the challenges without being required to submit speed-test data on a block-by-block basis.⁵¹ This process is a win-win for the large incumbent carriers: To the extent their coverage claims are not challenged, they have reduced the risk of competitive entry. If a coverage claim

⁵⁰ RF Engineer Coalition Reply Letter at 4.

⁵¹ See *MF-II Challenge Procedures PN*, 33 FCC Rcd at 2006-07 (para. 48).


is challenged, then the challenging party must expend considerable time and resources navigating the challenge process, and, as a practical matter, the current mechanism ensures that very little of the incumbent carrier territories will be challenged.

IV. CONCLUSION.

For the reasons presented in this Informal Request, Smith Bagley, Inc., respectfully requests the Commission to investigate the claims made by Verizon concerning its qualified 4G LTE service coverage, in its submission in response to the Commission's one-time data collection pursuant to the *MF-II Reconsideration Order*. If the Commission finds coverage to be significantly overstated, the Commission must require Verizon to resubmit its data for the purpose of making necessary corrections in its service coverage. Alternatively, the Commission may use the proceeding required by the Consolidated Appropriations Act of 2018, along with work being done by the National Telecommunications and Information Administration, to reassess 4G LTE broadband availability on Tribal lands, so as to arrive at a more accurate assessment.

Respectfully submitted,

SMITH BAGLEY, INC.

By: _____

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John Cimko

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October 18, 2018

Exhibit A

Drive Test Equipment and Operation

- **Test Mobile System (TEMS)** is a technology used by telecom operators to measure, analyze and optimize their mobile networks. It is considered as the basic tool to perform wireless network drive testing, benchmarking, monitoring and analysis.
- Drive testing is a method of measuring and assessing the coverage, capacity and Quality of service (QoS) of a mobile radio network.
- It requires a mobile vehicle outfitted with drive testing measurement equipment. (TEMS Phone) The equipment is made up of usually highly specialized electronic devices that interface to OEM mobile handsets. This ensures measurements are realistic and comparable to actual user experiences.
- The (TEMS), which is always collecting data during the drive test, can detect and record a wide variety of the physical and virtual parameters of mobile cellular service in a given geographical area. DL and UL speeds are good examples of parameters measured.
- TEMS uses a script which is manually started and is set up to retry its function if a failure appears during the testing phase. A failure is accepted as loss of adequate services or data speed. If there is no failure the script will continue until the 50 MB data file is transferred and then will begin to download a new file until the script is manually stopped.

CELLULAR ONE
Live and Connected

TEMS Drive Test Setup

Internal GPS used to relate location via TEMS Pocket

Device Specifications: Verizon Samsung S7 (SM-G930V) Configured for FTP Downlink



FTP Downlink testing completed with TEMS Pocket v: 16.3.1.15

Charger connected to device during testing phase

CELLULARONE
Live and Connected

Exhibit B

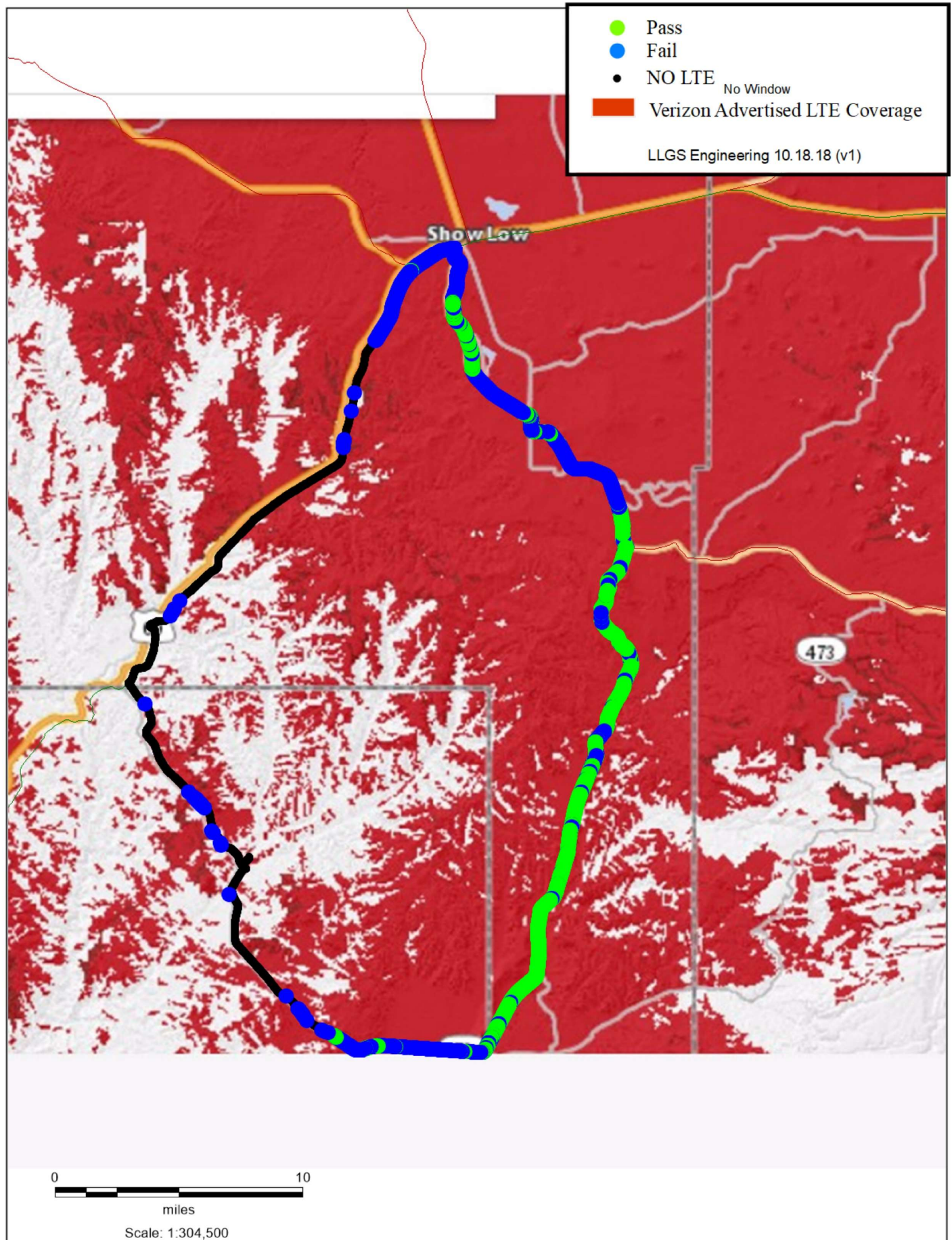


Exhibit C

MFII Challenge Analysis

AZ-611-2

- Drive Route
- Presumptive Successful Challenge
- Grids Boundary
- Drive Result 400m Buffer
 - ≥ 5 Mbps, LTE
 - < 5 Mbps, LTE

Successful challenge count	25
Total cell visited	70
Stop Count	29
Estimated area (Sq. Mile)	115.54
Yield (%)	86.21%



4.2 Miles

Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, © OpenStreetMap contributors, and the GIS User Community

Date: 10/5/2018

MFII Challenge Analysis

CELLULARONE®

AZ-609-1

- Drive Route
- Presumptive Successful Challenge
- Grids Boundary
- Drive Result 400m Buffer
 - ≥ 5 Mbps, LTE
 - < 5 Mbps, LTE

Successful challenge count	22
Total cell visited	102
Stop Count	57
Estimated area (Sq. Mile)	180.07
Yield (%)	38.6%



5.2

□ Miles

Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, © OpenStreetMap contributors, and the GIS User Community

Date: 10/5/2018

MFII Challenge Analysis

AZ-613-1

— Drive Route

Presumptive
Successful Challenge

Grids Boundary

Drive Result 400m Buffer

≥ 5 Mbps, LTE

< 5 Mbps, LTE

Successful challenge count	21
Total cell visited	50
Stop Count	57
Estimated area (Sq. Mile)	81.91
Yield (%)	36.84%



3.9

Miles

Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, © OpenStreetMap contributors, and the GIS User Community

Date: 10/5/2018

MFII Challenge Analysis

AZ-596-1

- Drive Route
- Presumptive Successful Challenge
- Grids Boundary
- Drive Result 400m Buffer
 - >= 5 Mbps, LTE
 - < 5 Mbps, LTE

Successful challenge count	20
Total cell visited	62
Stop Count	29
Estimated area (Sq. Mile)	72.61
Yield (%)	68.97%



3.25 Miles

Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, © OpenStreetMap contributors, and the GIS User Community

Date: 10/5/2018

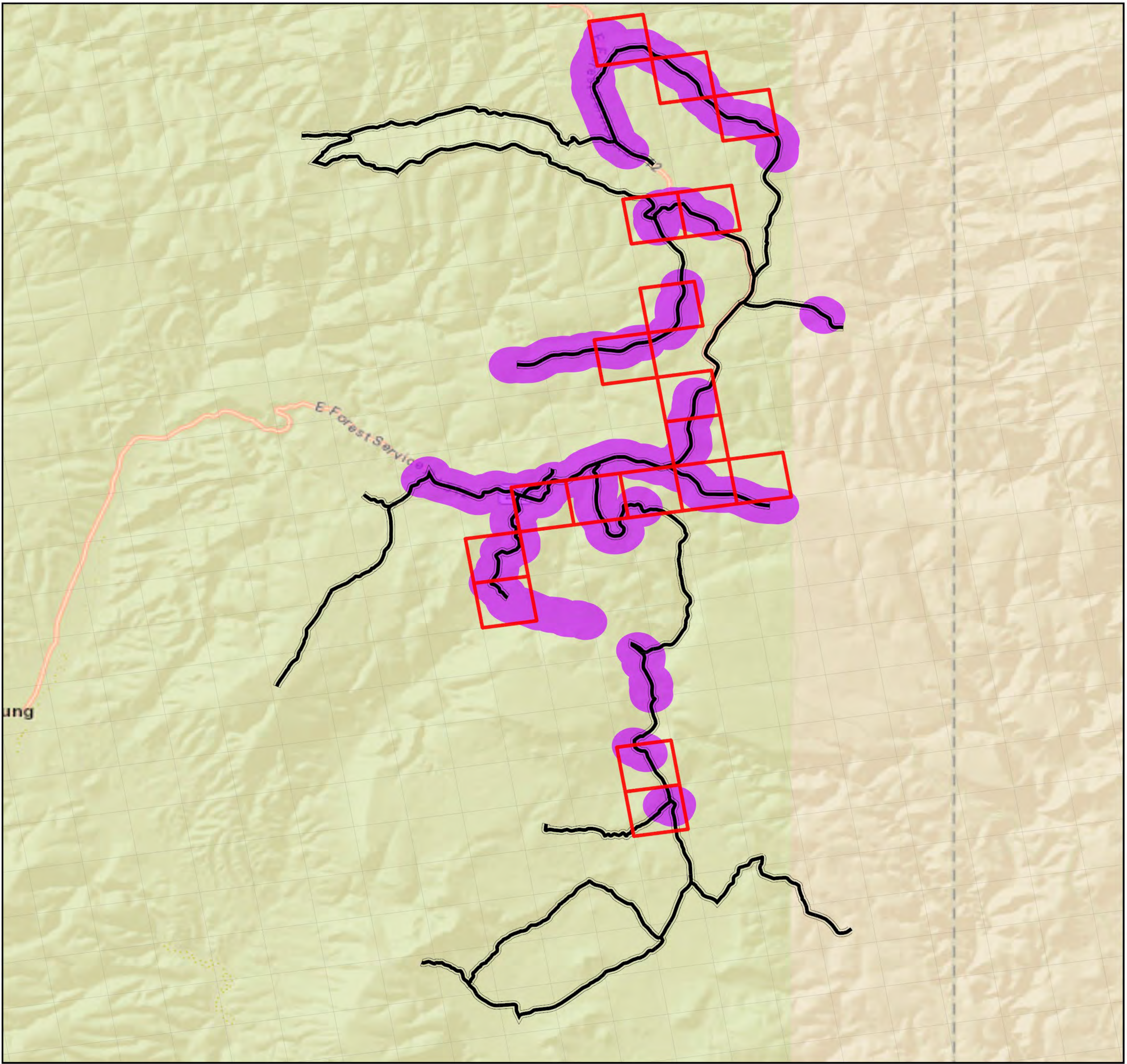


Exhibit D







Exhibit E



State of Illinois

Illinois Commerce Commission

Brien J. Sheahan
Chairman

160 North LaSalle Street
Chicago, Illinois 60601

July 30, 2018

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW-B204
Washington, DC 20554

Re: In re Connect America Fund WC Docket No. 10-90; In re Universal Service Reform –
Mobility Fund, WT Docket No. 10-208

Dear Ms. Dortch,

The Illinois Commerce Commission (ICC) is concerned that, despite the sizable net contributions to universal service funds paid by Illinois telecommunications customers year after year,¹ communities in Illinois will be left behind in the Commission's efforts to advance deployment of 4G LTE service to areas that are too costly for the private sector to serve. While Chairman Pai expressed his hope that process created by the Commission to identify unserved areas would produce an accurate map of unserved areas eligible for Mobility Fund II subsidies,² the process appears destined to deny Illinois a fair share, or indeed any share, of such funding, based on service shortcomings, of the \$4.53 billion allocated for funding over the next ten years.

A cursory examination of the May 22, 2018 Mobility Fund II Initial Eligible Areas Map reveals that there are almost no areas in Illinois designated as "Initial Eligible Areas," and thus eligible for Mobility Fund II funding. This result paints a materially inaccurate picture of the actual state of coverage in Illinois. While the ICC recognizes that the Commission cannot rely upon anecdotal evidence, it should not proceed based upon results that, even in the absence of systematic information, are unquestionably unrealistic.

The Commission's attempt to find 4G LTE information tailored to its Mobility Fund II mechanism is commendable. However, the ICC has misgivings regarding the Commission's choice to rely on a new, one-time collection of information. Unlike the Form 477 information

¹ In 2016, Illinois end users contributed approximately \$355 million to universal service support mechanisms and was a net contributor, when accounting for Universal Service support payments to Illinois providers, of approximately \$109 million. Universal Service Monitoring Report 2017, Table 1.9.

² Statement of Chairman Ajit Pai, Re: Connect America Fund, WC Docket No. 10-90; Universal Service Reform – Mobility Fund, WT Docket No. 10-208.

that is well understood by stakeholders and which has been collected over an extended period, the information the Commission elected to use has not been subject to review and vetting. The map that this information has produced, showing almost no unserved, eligible areas in Illinois, does not accurately reflect the actual state of 4G LTE coverage in Illinois.

The Commission's process for correcting inaccurate information is also problematic. The Commission limits challengers to service providers and government entities.³ However, the only incentive that service providers will have in challenging information will be the prospect that revisions to the information will allow them to bid for Mobility Fund II support in such areas. It is clear that the potential new business to be obtained by opening an additional area to funding may not be sufficient to compensate a provider for the time, effort, and cost of mounting a challenge, particularly in cases where the provider may be competing for funding with providers that do not incur the cost of mounting challenges. Additionally, it is not clear that providers have any incentive to act other than in their own interests. In particular, there is no incentive whatever for providers to act on behalf of end users, the intended beneficiaries of Mobility Fund II support.

As a result, the burden of mounting challenges on behalf of end users falls, for practical purposes, on governmental entities, which are the only entities with an incentive to mount challenges on behalf of end users. The Commission's process, however, is poorly suited to governmental challenge. In particular, the Commission requires challengers to provide "detailed proof of lack of unsubsidized, qualified 4G LTE coverage instead of 'anecdotal evidence.'"⁴ In requiring actual speed test evidence, the Commission notes, "we expect small carriers are likely to already own drive test equipment."⁵ The Commission does not, however, address the ability of states to perform such tests. Additionally, the Commission's test process requires testers to purchase equipment and subscribe to unsubsidized service provider service plans in challenged areas.⁶

This requirement is an entirely inappropriate one to impose upon State Commissions, and places them in an invidious position. Without statutory authority and a legislative appropriation, the ICC is not in a position to purchase service plans, buy equipment, and otherwise incur the expense of systematically studying and challenging submitted data. The ICC does not own drive test equipment. Further, even if the ICC were to seek such authority through the Illinois General Assembly, there is insufficient time pursuant to the Commission process to do so.

The Commission imposes upon challengers the burden of proof with respect to validating the information relied upon.⁷ The Commission adopts this approach, in part, to expedite disbursement of support.⁸ It is clear, however - particularly given the results of the Commission's information collection - that this process creates a substantial risk that funding

³ Connect America Fund; Universal Service Reform – Mobility Fund II, Order on Reconsideration and Second Report and Order, FCC 17-102, Released August 4, 2017, at paragraph 42 (cited below as MF II Order on Reconsideration).

⁴ Id., at paragraph 48.

⁵ Id.

⁶ Id. at paragraph 50.

⁷ Id. at paragraph 32.

⁸ Id. at paragraph 63.

will be improperly allocated. The long-run nature of the Commission funding process means that initial errors will be long-lived and difficult, if not impossible, to correct.

The Commission should, itself, verify the accuracy of the information it has collected and correct any errors in the information. As the entity distributing funding provided by Illinois telecommunications consumers, it is incumbent on the Commission to ensure its funding is based upon accurate information, rather than relying on entities that are unlikely or unable to validate and challenge such information to do.

Thank you for your consideration of this matter.

Sincerely,



Brien Sheahan, Chairman

Illinois Commerce Commission

cc: Illinois Congressional Delegation